

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

COURTHOUSE NEWS SERVICE,

Plaintiff,

v.

AMANDA TOSTE, et al.,

Defendants.

Case No. 1:21-cv-01790-ADA-SAB

ORDER DISCHARGING ORDER TO SHOW  
CAUSE

ORDER DIRECTING CLERK OF COURT TO  
CLOSE CASE AND ADJUST THE DOCKET TO  
REFLECT VOLUNTARY DISMISSAL  
PURSUANT TO RULE 41(a) OF THE FEDERAL  
RULES OF CIVIL PROCEDURE

(ECF Nos. 40, 41, 42)

On October 31, 2022, Plaintiff Courthouse News Service filed a notice of settlement. (ECF No. 29.) The Court ordered dispositional documents or a status report be filed by March 24, 2023. (ECF No. 30.) Subsequent to that order, Plaintiff dismissed, in piecemeal stipulations of dismissal filed on various dates in March 2023, Defendants Amanda Toste, Shawn Landry, Heather Pugh, Stephanie Hansel, and Nocona Soboleski. (See ECF Nos. 31, 34, 35, 37, 38.)

On March 28, 2023, the Court issued an order to show cause, on the basis that the March 24, 2023 deadline had passed and it appeared Plaintiff had neither dismissed Defendants Sharif Elmallah and Bonnie Sloan, nor filed a status report in compliance with the Court's November 1, 2022 order (ECF No. 30). (ECF No. 41.)

1 On March 29, 2023, Plaintiff filed a response to the order to show cause. (ECF No. 42.)  
2 Plaintiff informed the Court that, as of March 27, 2023, all Defendants were dismissed with  
3 prejudice and the action could be closed. As to Defendant Bonnie Sloan, Plaintiff explained it  
4 had replaced Defendant Sloan, who was sued only in her official capacity as Court Executive  
5 Officer/Clerk of Yuba Superior Court, with Heather Pugh in its first amended complaint, after  
6 discovering that Ms. Sloan was no longer the clerk of the Yuba Superior Court but had been  
7 replaced by Ms. Pugh.<sup>1</sup> As to Defendant Sharif Elmallah, Plaintiff conceded it did not timely file  
8 the stipulation of dismissal, but that it dismissed Defendant Elmallah on March 27, 2023 (ECF  
9 No. 40); the Court agrees that the order to show cause, which issued on March 28 but was signed  
10 on March 27, appears to have crossed with Plaintiff's filing of the stipulation of dismissal.  
11 Further, Plaintiff apologized to the Court for the untimely dismissal of this Defendant. The Court  
12 acknowledges it mistakenly ordered cause be shown as to Defendant Sloan whose substitution  
13 was not reflected on the docket upon the filing of the first amended complaint, and is satisfied  
14 with Plaintiff's response to the order to show cause with respect to the late dismissal of Defendant  
15 Elmallah. Accordingly, the Court shall discharge the order to show cause. In addition, the Court  
16 acknowledges the dismissal of Defendant Elmallah as the last Defendant to be dismissed and  
17 shall direct the Clerk of the Court to close this case.

18 Rule 41(a) of the Federal Rules of Civil Procedure allows a party to dismiss some or all of  
19 the defendants in an action through a Rule 41(a) notice. Wilson v. City of San Jose, 111 F.3d  
20 688, 692 (9th Cir. 1997); see also Concha v. London, 62 F.3d 1493, 1506 (9th Cir. 1995) ("The  
21 plaintiff may dismiss either some or all of the defendants—or some or all of his claims—through  
22 a Rule 41(a)(1) notice.")); Hells Canyon Pres. Council v. U.S. Forest Serv., 403 F.3d 683, 687  
23 (9th Cir. 2005) (The Ninth Circuit has "only extended the rule to allow the dismissal of all claims  
24 against one defendant, so that a defendant may be dismissed from the entire action."). "Filing a  
25 notice of voluntary dismissal with the court automatically terminates the action as to the  
26 defendants who are the subjects of the notice." Concha, 62 F.3d at 1506.

27 In light of the stipulation of dismissal (ECF No. 40), the Court notes all Defendants have

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28 <sup>1</sup> Ms. Pugh was dismissed March 7, 2023. (ECF No. 36.)

1 been dismissed from this action.

2 Accordingly, IT IS HEREBY ORDERED that:

- 3 1. The Court's March 28, 2023 order to show cause (ECF No. 41) is DISCHARGED;  
4 and  
5 2. The Clerk of the Court is DIRECTED to close the case and adjust the docket to  
6 reflect voluntary dismissal of this action pursuant to Rule 41(a).

7  
8 IT IS SO ORDERED.

9 Dated: March 30, 2023

  
UNITED STATES MAGISTRATE JUDGE